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# Congress of the United States

## House of Representatives

May 13, 2016

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

I write to express strong concerns about the Intended Use Plan (IUP) being developed by the State of Wisconsin, outlining how it intends to use Drinking Water State Revolving Funds in Fiscal Year 2016. I believe it deserves additional intensive scrutiny by the Environmental Protection Agency to ensure that it complies with federal law and adequately supports efforts to help the threat posed by lead service lines.

In the last year, concerns about lead in drinking water have been prominent as a result of the unfortunate situation facing the City of Flint, Michigan. It is estimated that in the State of Wisconsin, there are an estimated 176,000 Lead Service Lines (LSL). Of that amount, about 70,000 serve residences in the City of Milwaukee.

As noted by the CEO of the American Water Works Association, "[a]s long as there are lead pipes in the ground or lead plumbing in homes, some risk remains" of lead leaching into water. One way to permanently address this threat is to remove pipes containing lead through which drinking water flows, including LSL's. As a part of its IUP, the State of Wisconsin is proposing to use principal forgiveness funds specifically to help Wisconsin communities address the challenge of replacing LSL's that were installed in thousands of Wisconsin homes many decades ago. That decision is welcomed. Given the prevalence of LSL's in the City of Milwaukee, it is hard to see how any State plan to address the public health challenges posed by these pipes would not target efforts in the city where the majority of such lines exist.

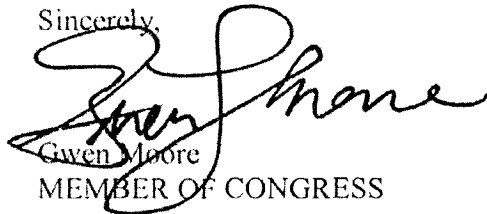
However, the State proposed IUP would arbitrarily cap assistance to the city of Milwaukee at \$750,000, or about 6%, of the total amount being made available statewide. This cap will unfairly limit the city with the largest concentration of LSL's serving homes from adequately addressing this public health threat for tens of thousands of residents. It is baffling that the criteria for apportioning these funds did not take into consideration the number or percentage of LSL's in the municipality, and that there is no apparent requirement to do so.

Further, the IUP provides no justification for this limit, other than the size of the city, which supports the argument that it is arbitrary, capricious, and harmful to helping achieve the goals of the Safe Drinking Water Act.

The EPA has the responsibility to ensure that states are using federal funds in compliance with federal laws. As you review the state's plans, I urge you to closely scrutinize this element and ensure that the State of Wisconsin clearly demonstrates how its proposed allocation will protect all Wisconsinites from lead in their drinking water. A state should not be able to claim to be advancing federal law while doing something, that on its face, appears quite contradictory to some of those goals.

I appreciate your timely consideration of this request.

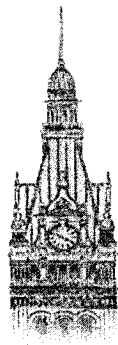
Sincerely,

A handwritten signature in black ink, appearing to read "Gwen Moore", written over a printed name and title.

Gwen Moore

MEMBER OF CONGRESS

Cc: Robert A. Kaplan, Acting Regional Administrator. EPA Region 5



**Tom Barrett**  
Mayor, City of Milwaukee

May 10, 2016

Ms. Robin Schmidt  
Environmental Loans Section Chief  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison WI 53707-7921

RE: Community Financial Assistance - CF/2, Safe Drinking Water Loan Program  
Intended Use Plan

Ms. Schmidt:

Thank you for the opportunity to comment on the Safe Drinking Water Loan Program Intended Use Plan (IUP) for Federal Fiscal Year 2016 Funds.

The IUP, and the accompanying release of additional principal forgiveness funds, is an important first step in recognizing the challenge many Wisconsin communities face replacing lead service lines (LSL) that were installed to provide municipal water to thousands of Wisconsin homes 65 years or more ago.

To provide you with some context, Milwaukee Water Works (MWW) estimates there are 70,000 residential properties in the city served by LSL. Based on prior experience, the cost to replace private LSL in Milwaukee ranges from \$2,300 to \$7,200, with an average cost of \$3,600. To achieve the public health benefit of replacement, and in anticipation of forthcoming federal standards, the private side of the LSL should be replaced in conjunction with the public side. That is best done at the same time as our water main replacement program, or when an individual LSL is leaking and replacement is needed.

In our most recent rate case, the Public Service Commission required Milwaukee to increase the miles of water mains replaced to 15 miles per year, increasing to 20 miles per year by 2020. This means we need to coordinate the replacement of the full (public and private) LSL at each connecting property to fully protect the health of the residents along those projects. We will continue to work with you and the PSC, as well as the State Division of Health, to develop effective and efficient practices for full replacement.

Under the proposed IUP, the City of Milwaukee will be eligible to apply for a maximum of \$750,000 in principal forgiveness to be used toward private LSL replacement, plus an uncapped additional amount to replace daycare center LSL. We also understand that the total amount of principal forgiveness to be made available is \$11,800,000 and that there are approximately 176,000 LSL in use throughout the State of Wisconsin.

Given the distribution under the proposed IUP, I must address the issue of equity for our residents. Milwaukee by far has the largest number of lead service lines in the state and a median household income (MHI) 67% of the state MHI. Under the formula distribution, Milwaukee would receive only 6.35% of the funds even though it has close to 40% of the state's identified LSL. I realize we could also receive funds for daycare center LSL, but the fact that other communities would also be eligible for those funds could leave the inequity largely intact.

While I appreciate the desire of the DNR to distribute available funds across the state and that many communities are in need and deserving of assistance, it is simply inequitable to provide some communities with enough funds to replace all or most of their private LSL, while leaving the vast majority of our residents to address a serious public health risk on their own dime, or at their landlord's whim.

The 1996 Safe Drinking Water Act (SDWA) requires that states prioritize giving funds to projects that address the most serious risk to human health, are necessary to ensure compliance with the requirements of the SDWA and assist systems most in need on a per household basis. I am concerned with the disparity between the amount of funds available and the proportion that will come to Milwaukee, given the \$750,000 cap you propose to place on our application. The distribution of the funds should better reflect the prevalence of LSL in the communities throughout the state.

I am happy to see that a provision was included to exceed the municipal cap to provide for LSL replacements at licensed daycare centers. A survey conducted by city staff indicates there are as many as 500 local daycares with LSL in Milwaukee. Given past practice, the Public Service Commission may not allow MWW to use ratepayer funds to replace the utility side of LSL serving daycare centers to coordinate with the private side replacement. We would also like to have better definition regarding how to apply for the daycare funds provided in the IUP, and clarification on whether projects to replace private side LSL serving daycare centers are subject to the same application process and June 30<sup>th</sup> submittal deadline.

While I understand the importance of defining shovel-ready replacement projects in advance, in practice, LSL develop leaks as the infrastructure ages, independent of water main replacement projects. These leaks are emergencies that need to be dealt with as they occur to prevent property damage and wasted water. The MWW's response to these leaks is to replace the "city" side. Since we are unable to identify these leaks at the time of application, I request some flexibility to re-prioritize a small percentage of the funding to these LSL projects as emergencies arise.

We would also like to see further clarification of the timeline allowed for reimbursement claims to be submitted. A longer time period that stretches well beyond the fiscal year would be appreciated.

Thank you for your consideration. I look forward to working with you to implement this important program. If you have any questions or require further information, please do not hesitate to contact me at (414) 286-6202.

Sincerely,

A handwritten signature in black ink that reads "Tom Barrett". The signature is written in a cursive style with a large, sweeping initial "T".

Tom Barrett  
Mayor

